SUPREME COURT OF THE UNITED STATES.

No. 63.

AUSTIN L. ADAMS AND ANN C. HARDING, PLAINTIFFS IN ERROR,

vs.

JULIA ROBERTS.

IN ERROR TO THE CIRCUIT COURT U. S. FOR ALEXANDRIA, D. C.

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J. & G. S. GIDEON, Printers.

Petition for writ of error.

To the honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States:

The petition of Austin L. Adams and Ann C. Harding respectfully shows to your honor, that at the May term, 1842, of the circuit court for Alexandria county, in the District of Columbia, in a suit for freedom brought against your petitioners by a woman of color named Julia Roberts, who, before that time, had always been held, owned, and possessed by your petitioners as a slave, judgment was rendered by the court, on the verdict of a jury, in favor of the plaintiff, that the plaintiff recover her freedom with costs.

Your petitioners further show to your honor, that in the progress of the said trial in the circuit court, the plaintiff asked instructions to the jury, which were refused by the court, to which refusals two bills of exceptions were taken, which were sealed and enrolled, and copies of which are set out in the transcript of the record of proceedings in said suit, which accompanies this petition in conformity to law. Your petitioners say that there was manifest error in the said refusals, and that the error contained in the refusal of the first prayer, to which exception is taken by the first bill of exceptions, "involves a question of law of such extensive interest and operation, as to render the final decision of it by the Supreme Court of the United States desirable," said supreme court being the only appellate tribunal in the last resort for suitors in the District of Columbia. And your petitioners show by the annexed affidavit, that the value of said Julia Roberts is over $100. Your petitioners will name but one fact in this connexion, to show the extensive bearing of the error complained of in the present case, which is, that there are nine other negroes owned and possessed by your petitioners, whose freedom or slavery depends on this identical question, and who, your petitioners believe, are only awaiting the ultimate decision of the present case to guide them in proceeding or not against your petitioners for their freedom. Your petitioners will only add further, that the circuit court in the decision (which is on the construction of a statute of Virginia adopted by act of Congress as the law of Alexandria county,) have run directly counter to a long settled construction of that statute by the court of appeals of Virginia, and to an uninterrupted current of Virginia decisions, continued through the last forty years.

The error complained of is the following: Simon Summers, through whom the petitioners claim, being a resident of Alexandria county, in the District of Columbia, by deed dated December 30th, 1801, emancipated certain slaves, and among them Sarah, (the mother of Julia Roberts,) to be free 1st January, 1814, and

all the children born of Sarah to be free at the age of 25 years, (Julia Roberts at the time of suit brought being over 25 years.) This deed of emancipation was not proved and recorded in Alexandria county, but on the 18th day of January, 1802, was acknowledged by Simon Summers before the court of Fairfax county, in Virginia, and was recorded among the records of said court.

Upon this deed Julia Roberts relied to establish her right to freedom. The prayer of the defendants to exclude this deed from the jury was overruled, and the deed admitted to go to the jury as evidence of her right to freedom; and this is the error complained of in the present petition to your honor, as being of such extensive interest as to render the final decision of it by the supreme court desirable.

The statute of Virginia in force in Alexandria county, on which this prayer of the defendants was based, is the 36th section of the act of the General Assembly of Virginia, passed the 17th December, 1792, entitled "an act to reduce into one the several acts concerning slaves, free negroes, and mulattoes," ss. 36, will be found at page 191 of Pleasant's edition of the laws of Virginia, published in 1803, and is in the following words:

"It shall be lawful for any person by his or her last will and testament, or by any other instrument in writing under his or her hand and seal, attested and proved in the county or corporation court by two witnesses, or acknowledged by the party in the court of the county where he or she resides, to emancipate and set free his or her slaves, or any of them, who shall thereupon be entirely and fully discharged from the performance of any contract entered into during servitude, and enjoy as full freedom as if they had been particularly named and freed by this act."

This is the only law in Virginia and Alexandria county relating to the power of the owner to manumit his slaves, and it is proper here to remark that there is no law in Virginia or Alexandria county, giving a power of manumission to non-residents owning slaves in that State, but that the whole spirit and policy of the law and judicial decisions of the State are in opposition to such right.

Your petitioners pray of your honor to grant them an order to the clerk of the circuit court of Alexandria county in conformity to law, empowering and requiring the said clerk to issue a writ of error at the suit of your petitioners to the next term of the Supreme Court of the United States. And your petitioners will ever pray, &c.

AUSTIN L. ADAMS,
ANN C. HARDING,
By TH: SEMMES,
Their Attorney.

Sept. 22d, 1842.

Order directing writ of error.

DISTRICT OF MARYLAND, *October 12th*, 1842.

Ordered, That a writ of error be issued according to the prayer of the aforegoing petition.

R. B. TANEY.

To Cassius F. Lee, clerk of the United States Circuit Court of the District of Columbia for the county of Alexandria.

Bond.

Know all men by these presents, that we, Austin L. Adams and Christopher Neale are held and firmly bound unto Julia Roberts in the full and just sum of two hundred dollars current money of the United States, to be paid to the said Julia Roberts, her executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this eleventh day of October in the year 1842.

Whereas, lately at a circuit court of the District of Columbia, sitting for the county of Alexandria, in a cause depending in the said circuit court, wherein the said Julia Roberts was plaintiff, and the said Austin L. Adams and Ann C. Harding were defendants, a verdict and judgment were rendered in favor of the said Julia Roberts, and the said defendants having presented to the honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, a petition for a writ of error to be granted them in conformity to law, to reverse the judgment in the aforesaid suit.

Now the condition of the above obligation is such, that if the writ of error so prayed shall be granted the said Austin L. Adams and Ann C. Harding, and they shall prosecute their writ so granted to effect, and answer all damages and costs, if they fail to make their plea good; then the above obligation to be null and void, otherwise, to remain in full force and virtue in law.

AUSTIN L. ADAMS, [L. S.]
By his Attorney in fact Chr. Neale.
CHR. NEALE. [L. S.]

Sealed and delivered in presence of,
TH. SEMMES.

I hereby certify that Austin L. Adams and Christopher Neale, the obligors in the above bond, are solvent men, in good credit and are each owners of real and personal property to a far greater amount in value than the penalty of the above bond; and I further certify that Christopher Neale is the duly authorized attorney in fact of said Adams for the purpose of signing the above bond in said Adams' name by a good and sufficient instrument of writing therefor.

TH: SEMMES.

ALEXANDRIA COUNTY, *Sct.*

Chr. Neale, of the town of Alexandria, personally appeared before the subscriber, a justice of the peace, in and for the county aforesaid, and made oath in due form of law, that he personally knows negro Julia Roberts, the petitioner for freedom against Austin L. Adams and Ann C. Harding, in the circuit court of the District of Columbia, and county of Alexandria, and that the said Julia Roberts is worth more than three hundred dollars.

Given from under my hand, this 20th September, 1842.

JOHN GRUBB.

DISTRICT OF MARYLAND,
City of Baltimore, to wit:

United States of America to Julia Roberts, greeting: You are hereby cited and admonished to appear at the Supreme Court of the United States, to be held at the city of Washington on the second Monday of January next, pursuant to a writ of error filed in the clerk's office of the United States circuit court of the District of Columbia, for the county of Alexandria, wherein Austin L. Adams and Anne C. Harding are plaintiffs in error, and you, the said Julia Roberts, are defendant in error, to show cause, if any there be, why the judgment against the said Austin L. Adams and Anne C. Harding, in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness my hand and seal this twelfth day of October, in the year of our Lord one thousand eight hundred and forty-two.

R. B. TANEY. [L. S.]

ALEXANDRIA COUNTY, *to wit:*

This day personally appeared before me the subscriber, a justice of the peace for the county aforesaid, Wriley Carlin, and made oath, in due form of law, that he delivered a true copy of the above citation to Julia Roberts, on the 14th day of October, 1842.

Given under my hand this 8th day of November, 1842.

CHAS. McKNIGHT.

Writ of Error.

UNITED STATES OF AMERICA,
District of Columbia, to wit:

The President of the United States of America, to the judges of [L. S.] the United States circuit court of the District of Columbia, greeting:

Because in the record and proceedings, and also the rendering of the *of the* judgment of a plea which is in the said court for the county of Alexandria, before you, or some of you, between Julia Roberts and Austin L. Adams and Ann C. Harding, in a plea of

trespass, assault and battery, and false imprisonment, manifest error hath happened, to the great damage of the said Austin L. Adams and Ann C. Harding, as by their complaint appears; and we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, in the District of Columbia, being the present seat of the national government, on the first Monday in January next, that, the record and proceedings aforesaid being seen and inspected, the said Supreme Court may cause further to be done therein, what of right, and according to the laws and customs of the United States, should be done.

Witness the honorable Roger B. Taney, chief justice of the United States, this eighteenth day of October, eighteen hundred and forty-two.

CASSIUS F. LEE, *C. C.*

DISTRICT OF COLUMBIA, *to wit:*

Pleas before the honorable the judges of the United States Circuit Court of the District of Columbia, for the county of Alexandria, at the court-house in the town of Alexandria, the 19th day of May, 1842.

JULIA ROBERTS, plaintiff,
vs.
AUSTIN L. ADAMS & ANN C. HARDING, def'ts.

Petition filed, and leave to sue in forma pauperis.

Be it remembered, that heretofore, to wit, at a court continued and held for the district and county aforesaid, the 13th day of May, 1840, came the plaintiff aforesaid, and filed her petition, alleging that she is illegally retained in slavery by Austin L. Adams and Ann C. Harding, and praying leave to sue in forma pauperis for her freedom. William L. Brent and Robert J. Brent are assigned as counsel, to examine and report the facts of her case to the court. Whereupon the said counsel having reported the facts to the court, upon considering the same, the court doth grant her leave to bring her suit in forma pauperis, and order that a capias be awarded her against the said Austin L. Adams and Ann E. Harding, returnable to the next court.

It is further ordered that the said petitioner be committed to the custody of the marshal of the District of Columbia, and detained by him until the said Austin L. Adams and Ann C. Harding, or either of them, shall enter into bond, in the penalty of one thousand dollars, conditioned to have the petitioner forthcoming at the trial of the suit for her freedom, and to permit her to take steps to prepare

for said [trial], and to attend court; which bond and security is to be approved by *by* the marshal.

Which petition and report are as follows:

Petition.

To the honorable the circuit court of the District of Columbia, for Alexandria county:

The petition of Julia Roberts showeth unto your honors that a certain Austin L. Adams claims your petitioner as his slave, and does hold her in slavery by authorizing his sister, Mrs. Ann E. Harding, to keep your petitioner in slavery. Your petitioner showeth that she is in law entitled to her freedom, and that the claims of said Adams in this behalf are wholly groundless; wherefore she prays that her right to freedom may be investigated, and that she may be discharged from the illegal restraint imposed upon her by the said Adams, and by the said Ann E. Harding acting for the said Adams. And as in duty bound your petitioner will ever pray.

BRENT & BRENT, *for petitioner.*

JULIA ROBERTS,
vs.
AUSTIN L. ADAMS & ANN E. HARDING.

Report of counsel.

In this case, and under the order of reference to us, we report, that we are satisfied it can be proved on the trial of this cause, that one Somers many years ago executed a deed or instrument of manumission, which was duly recorded in Fairfax county, by which he manumitted his slave Sarah, (the mother of the petitioner, who was not then born,) at her age of twenty-eight, and her issue at the age of twenty-five; that previously to the execution of said instrument of writing, at least six years before the date thereof, the mother of the petitioner went to live with one Wesley Adams, who had married the daughter of said Somers, and that she continued to live with said Adams more than five years; that afterwards, and when the said Sarah reached her age of twenty-eight years, the said Adams suffered her to go free, and she was from that time reputed to be free, and recognised as such by said Adams; that the claim now set up by the defendant is derived through said Wesley Adams; that the petitioner is now upwards of twenty-eight years of age. Upon these facts we are of opinion that the possession by Wesley Adams of Sarah was not adverse to said Somers, and that Sarah and her issue became free according to the terms of said instrument of manumission, and that the petitioner is now free.

BRENT & BRENT, *for petitioner.*

October 13th, 1840.

Whereupon a capias ad respondendum issued, as follows:

Capias.

DISTRICT OF COLUMBIA, *to wit:*

The United States of America, to the Marshal of the District of Columbia, greeting:

We command you that you take Austin L. Adams and Ann C. Harding, if they be found within the county of Alexandria, in your said District, and them safely keep, so that you have their bodies before the honorable the judges of the United States Circuit Court of the District of Columbia, for the county of Alexandria, at the court-house in the town of Alexandria, at the next court, to answer Julia Roberts, of a plea of trespass, assault and battery, and false imprisonment—damage one hundred dollars—and have then there this writ.

Witness the honorable William Cranch, chief judge of the said court, this 18th day of November, 1840.

CASSIUS F. LEE, *C. C.*

Executed. D. MINOR, *D. M.*

At another day, to wit, at a court continued and held for the district and county aforesaid, the 7th day of June, 1841, came the plaintiff aforesaid by her said attorneys, and the defendants by Chr. Neale, esq., their attorney; and the plaintiff filed her declaration against the said defendants, as follows:

Nar.

DISTRICT OF COLUMBIA, *Alexandria county, to wit:*

Julia Roberts complains of Austin L. Adams and Ann E. Harding, in custody, &c., of a plea of trespass and false imprisonment; for this—that whereas the said plaintiff, being at the county aforesaid, on the day 1840, was with force and arms, and great violence, assaulted and beaten by the said defendant, and was then and there illegally imprisoned by the said defendant, to the great injury of the plaintiff, and to the deprivation of her personal liberty, and to the damage of the plaintiff one thousand dollars; and therefore she brings suit.

BRENT, *for Pl'ff.*

Pledges, &c.
J. DOE & R. ROE.

Not guilty joined.

And by consent of parties, this case is now placed upon the trial docket of the court, and the defendants, by Chr. Neale, esq., their attorney, comes and defends the wrong and injury, when, &c., and say that they are not guilty of the trespass and false imprisonment, as the plaintiff against them has complained; and of this they put

themselves upon the country, and the plaintiff likewise; and the trial of the issue is deferred until the next term.

And at another day, to wit, at a court continued and held for the District and county aforesaid, the day of October, 1841, came the parties by their attorneys, and this case is continued.

Jury sworn.

And at a court continued and held for the District and county aforesaid, the 18th day of *of* May, 1842, came the parties aforesaid by their attorneys, and thereupon came a jury, to wit: John Adam, Presley Jacobs, James Vansant, John Meuir, John Morgan, William Veitch, Lemuel Stansbury, Joseph H. Miller, John Shackelford, Thomas E. Beard, David G. Prettyman, and Nehemiah Hicks, who *be* sworn and affirmed well [and] truly to try the issue joined, and a true verdict to give, according to the evidence, after hearing the testimony in the cause, by consent of parties, and with the assent of the court, are continued until to-morrow.

Verdict for plaintiff, and Judgment.

And now here, at this day, to wit, at a court continued and held for the county of Alexandria, the aforesaid 19th day of May, 1842, came the parties aforesaid by their attorneys, and the jury, sworn and affirmed to try the issue in this case, appeared in court, pursuant to their adjournment, and returned the following verdict: "We of the jury find for the petitioner."

Therefore it is considered by the court, that the plaintiff recover her freedom, and also that she recover her costs by her about her suit in this behalf expended; and the said defendant may be taken, &c.

1*st Bill of Exceptions.*

JULIA ROBERTS vs. ADAMS & HARDING } 1st Bill of Exceptions.

At the trial of this cause, the petitioner having given evidence tending to show that, previous to the year 1801, Sarah, the mother of the petitioner, was the property of Simon Somers, and remained in his possession until about the year 1799, when she was placed by said Somers in the possession of Wesley Adams, who about that time married the daughter of said Somers, and who lived then, and continued to live for many years thereafter, in Fairfax county, Virginia; then gave evidence that diligent search had been made among the records of Fairfax county, Virginia, for an original deed of manumission of said petitioner's mother by said Somers, but no such original deed could be found, and that the same is lost; but that there was among said records the enrolment of a deed, whereof the annexed paper marked A (see page 11 of this record) is ad-

mitted to be a true copy, and of the certificates of acknowledgment and the recording of the same. And further offered evidence that said deed was personally acknowledged by the said Simon Somers, in the county court of the said county of Fairfax—the said slave Sarah being then there in the said county, and having always before resided in the said county. And the petitioner then read in evidence the said paper marked A, purporting to be the copy of a deed of manumission from said Somers, of the negro woman named Sarah, named therein; and then gave evidence tending to show that the petitioner was the child of said named Sarah, and is now about 38 (28) years of age; and further gave evidence tending to show that the defendant Harding makes no claim to the petitioner in her own right, but solely by the direction of her co-defendant Adams, who is the son of the Wesley Adams above named, and his said wife the daughter of said Somers. And the petitioner further gave evidence tending to show that, about the year 1820, the said Wesley Adams brought Sarah, the petitioner's mother, to the public poor-house in Fairfax county, State of Virginia, and applied to the overseers of the poor for said county, for alimony for said Sarah as a free woman of color, and her two small children; and that a levy was made upon said county for their support, and they were supported until the year 1826, when a levy was made for the support of said Sarah and the three children which she then had with her, but among whom the petitioner was not included; and that said levy, when raised, was placed in the hands of said Wesley Adams for their support as aforesaid. And further gave evidence tending to show that Sarah passed as free for a number of years, and that Wesley Adams, about the year 1826, said that Sarah and her children were free, and that the said Adams wanted to sell the petitioner to a witness, to serve him until she should reach 25 years of age, when she was to go free; and that Simon Somers had given slaves to him in such a way as to be of no service to him, as they became free so soon as they became valuable. And the petitioner further gave evidence tending to prove, that at the division of the estate of Simon Somers, who died in 1836, the defendant Adams was present, and that in said division the said Sarah was brought into hotch-pot—that is, Wesley Adams was charged, as distributee of Simon Somers' estate, with the value of the services of said Sarah, up to the year 1814, when she went free, and up to which time the said Somers had allowed her to serve Wesley Adams. And the plaintiff further offered evidence to prove, that the said Simon Somers resided in the county of Fairfax before and until the 27th of February, 1801, when the county of Alexandria was erected, consisting of a part of the said county of Fairfax; and the then residence of the said Simon Somers fell within the said county of Alexandria, in the District of Columbia, without any change of his actual residence; that the slaves mentioned in the deed of emancipation had always resided in the said county of Fairfax up to the

date of the said deed, and to the time of its acknowledgment as aforesaid.

The defendants then offered evidence tending to prove, that an order was made by the overseers of the poor of the said county of Fairfax, in 1825, to demand of the said Wesley Adams the $20 advanced him for the support of Sarah's infant children.

The defendants then gave evidence tending to show that said Sarah died some years ago, on the land of John Adams, and after remaining two days there, was buried at the expense of the defendant, Austin L. Adams.

The defendants then gave evidence tending to show that at the date of the paper, marked A, viz: 30th December, 1801, the said Simon Somers was a resident of the county of Alexandria, District of Columbia, and did not reside in Fairfax county, Virginia. But the witnesses who proved the said residence of said Somers, proved, on cross examination, that at said last mentioned date, the said Sarah was in the possession of Wesley Adams, in Fairfax county, Virginia; and that at said date Simon Somers owned two hundred acres of wood land in said Fairfax county, and was interested in another tract of land in said Fairfax county, on which there was a house, and which was cultivated land, but which was tenanted by one Furguson; and that said Simon Somers resided before 1800, in Fairfax county, in Virginia, and never removed from the place where he then resided; but that the place of his residence was included within the lines of the District of Columbia, and that he continued to reside in the same place until his death.

Whereupon, the defendants, by their counsel, prayed the court to instruct the jury, that if they shall believe, from the above evidence, that the said Simon Somers did reside in the county of Alexandria, Dis. Col., at the time of the executing and acknowledging the deed aforesaid, and continued so to reside until his death, in 1836, then that the deed of emancipation so, as aforesaid, made, executed, acknowledged, and recorded, in the county court of Fairfax county, Virginia, does not entitle the petitioner to freedom under the statute of Virginia, in such cases made and provided, entitled "An act reducing into one, the several acts concerning slaves, free negroes, and mulattoes," passed the 17th December, 1792.

But the court refused to give the instruction as prayed, and to which refusal the defendants except, and pray that this their bill of exception may be signed, sealed, and enrolled, and which is accordingly done, this the 18th of May, 1842.

W. CRANCH, [L. S.]
JAMES S. MORSELL, [L. S.]

2d Bill of Exceptions.

2d Bill of Exceptions.

Be it remembered, that on the trial of this cause, the petitioner and defendant having offered the evidence contained in the first bill

of exceptions, and this being all the evidence adduced on the part of the petitioner and defendant aforesaid, the defendants, by their counsel, prayed the court to instruct the jury, that the testimony aforesaid, although believed by the jury, is not sufficient in law to maintain the issue j'd; and therefore the law is for the defendants.

But the court refused to give the instruction so prayed, not being willing to certify that the evidence so stated as aforesaid is all the evidence adduced by the parties in the said cause, and because such an instruction would take the cause from the consideration of the jury, without giving the petitioner the benefit of the presumption which the jury might draw from the facts so given in evidence. To which refusal the defendants except, and this their bill of exceptions is signed, sealed, and ordered to be enrolled, this 18th of May, 1842.

W. CRANCH, [L. S.]
JAMES S. MORSELL, [L. S.]

Paper A.

Paper A, referred to in 1st bill of exceptions.

Know all men by these presents: that I, Simon Summers, have in my possession the hereafter named people, now in the county of Fairfax, and State of Virginia, which are slaves during their natural lives, which is contrary to the spirit of christianity or humanity; and, whereas, by an act of Assembly of said State, passed in the year of our Lord one thousand seven hundred and seventy-six, giving the holders of slaves liberty to manumit them; do by these presents liberate each slave in the following manner: Negroes—Milly, about the age of 39 years, to be free the first day of January, 1802; Fanny, about the age 39 years, to be free the 1st day of January, 1803; Sarah, about the age of 18 years, to be free 1st day of January, 1814; Will, about the age of 14 years, to be free the 1st day of January, 1818; Hannah, Sarah's child, about the age of five months, to be free the first day of January, 1829; all the children that may be born of Fanny and Sarah, to be free at the age of 25 years, and their children and Hannah's children are to be free at the age of 21 years.

As witness my hand and seal, this 30th day of December, 1801.

SIMON SUMMERS, [L. S.]

Test: CHARLES LITTLE,
HARRISON CLEAVELAND.

At a court held for Fairfax county, 18th day of January, 1802, Simon Somers acknowledged this deed of manumission, to the several negroes therein mentioned, to be his act and deed, which is ordered to be recorded.

Test: WILLIAM MOSS, *Clerk.*

A copy. Test: S. M. BALL.

VIRGINIA, *to wit:*

I, Spencer M. Ball, clerk of the county court of Fairfax, in the Commonwealth aforesaid, do hereby certify that the foregoing is a true copy of the deed of manumission, from Simon Summers to his negroes, as the same is recorded in my office.

In testimony whereof, I have hereto set [my] name, and
[L. S.] affixed the seal of the said county, this 22d day of September, 1841, and in the 66 year of the Commonwealth.

S. M. BALL.

DISTRICT OF COLUMBIA, *Alexandria County, to wit:*

I, Cassius F. Lee, clerk of the United States Circuit Court of the District of Columbia, for the county of Alexandria, hereby certify that the foregoing is a true transcript of the record of the proceedings in a suit lately depending in said court, in which Julia Roberts was plaintiff, and Austin L. Adams and Ann E. Harding were defendants.

In testimony whereof, I hereto set my hand, and affix the
[L. S.] seal of the said court, this 27th day of June, 1842.

CASSIUS F. LEE, *Clerk.*

Filed 10th November, 1842.